

REMARKS

This paper is being filed in response to the Office Communication dated November 18, 2002. Applicants respectfully request reconsideration of the above-identified application in light of the amendments and remarks made herein.

Claims 1-28 are pending. Claims 1-28 have been amended in the Amendment submitted on August 15, 2002.

The Examiner has indicated in the Office Communication dated November 18, 2002, that the Amendment submitted on August 15, 2002 was not fully responsive to the Office Communication mailed March 22, 2002 because the Amendment did not fully respond to the 35 U.S.C. § 103(a) rejections. Applicants' lack of response to the 35 U.S.C. § 103(a) was unintentional and submit this response in order to be fully responsive to the March 22, 2002 Office Action.

The Examiner has rejected claims 19 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Hoekema et al. in view of Skaggs et al. The Examiner indicates that Hoekema et al. is applied as in the 35 U.S.C. § 102(b) rejection but lacking a teaching of an enzyme sequence that encodes a cytochrome P450 or a process for transforming a substrate by enzyme catalysis using an enzyme that is expressed in a yeast. The Examiner then contends that Skaggs et al teach a DNA sequence encoding a cytochrome P450 involved in ergosterol biosynthesis from yeast and further teach introducing the yeast cytochrome P450 sequence into a yeast integrating vector, yeast transformed with the vector and functional expression of the yeast cytochrome P450 DNA.

As indicated in the Response submitted on August 15, 2002, Applicants assert that Hoekema appears to disclose that codon replacement of major or preferred codons in a gene by minor or non-preferred codons which results in lower levels of gene expression. *See e.g.* Hoekema, Abstract. However, Hoekema does not teach the opposite, *i.e.* replacing minor codons with major yeast codons, which is the subject matter of the claims of the present Application. In addition, the codon replacement apparently taught by Hoekema is limited to a single **yeast** gene as noted by the Examiner in his rejection under 35 U.S.C. § 103(a). *See* Hoekema, p. 2915, right column, second full paragraph. The instant claims, however, recite "recombinant *non-yeast* DNA" (emphasis added). Similarly, Skaggs et al. teach a **yeast** DNA sequence which encodes a cytochrome P450 involved in ergosterol biosynthesis. It is inconceivable that a person of ordinary skill in the art would be motivated by Hoekema to obtain a non-yeast gene expressible in yeast by replacing minor non-yeast codons with major yeast codons. Accordingly, because the present claims recite a "recombinant *non-yeast* DNA", Hoekema and Skaggs, whether considered separately or in combination, fail to teach or suggest every element of the claimed invention. Therefore, Applicants respectfully request withdrawal of this rejection.

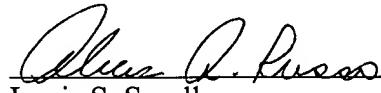
Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that the present application is in condition for allowance.

Applicants do not believe any fee is required for this filing. Nevertheless, the Commissioner is hereby authorized to charge any fees required for this submission to Deposit Account No. 02-4377. Two copies of this page are enclosed.

Respectfully submitted,

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